

REMARKS

Claims 1-21, remain in this application. A request for a one month extension of time is submitted herewith. Applicant respectfully requests re-examination.

Claim rejection - 35 U.S.C. §112, 2nd paragraph

Claims 15-21 were rejected under 35 U.S.C. §112, second paragraph for being indefinite. Applicant has amended claims 15 and 18 to alleviate the ambiguity noted in the Office Action. The Applicant respectfully requests that this rejection be withdrawn.

Claim rejection - 35 U.S.C. §102(b)

Claims 1 and 12-15 were rejected under 35 U.S.C. §102(b) as anticipated by *Masuda et al.* (U.S. Patent No. 6,373,959). Applicant respectfully traverses.

Claim 1 recites “a top portion of a housing having a circumference and a height adapted to flex in a controlled manner.” *Masuda* does not teach or suggest “a top portion of a housing having a circumference and a height adapted to flex in a controlled manner.”

The Office Action contends that the limitation of “a top portion of a housing having a circumference and a height adapted to flex in a controlled manner” is shown as reference numerals 10, 26, and 20 in *Masuda*. Applicant respectfully disagrees.

Only the portion identified by reference numeral 10 is a housing portion. Portions 20 and 26 are a diaphragm and a support ring. These portions are structurally different, and function very differently, from a housing portion. Furthermore, the portions identified as 20 and 26 of *Masuda* do not contact a bottom portion of a housing, as required by claim 1.

Regarding housing portion 10, *Masuda*, at column 1, lines 52-54 states “...deformation of the housing member can be surely prevented...” Furthermore, at

col.4, lines 51-52, the Masuda references states that beam portion 12 is attached so that, that during operation, the diaphragm may oscillate but "...does not cause the whole height of the transducer to be increased." Contrary to this teaching, claim 1 requires "a top portion of a housing having a circumference and a height adapted to flex in a controlled manner." Flexing includes the height of the transducer increasing. Therefore, Masuda not only does not teach or suggest "a top portion of a housing having a circumference and a height adapted to flex in a controlled manner," Masuda teaches that such flexing is to be prevented.

Applicant respectfully requests that this rejection be withdrawn.

Claim rejection - 35 USC §103(a)

Claims 2-11, and 16-20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Masuda. The initial burden is on the Examiner to provide some suggestion of the desirability of doing what it is the inventor has done. "To support the conclusion the claimed invention is directed to obvious subject matter, either the references expressly or implicitly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why an artisan would have found the claimed invention to have been obvious in light of the teachings of the references." Ex parte Clapp, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985).

Regarding claim 1, and claims 2-11, and 16-20 which depend from Claim 1, Masuda does not suggest or teach the limitation of "a top portion of a housing having a circumference and a height adapted to flex in a controlled manner."

For at least this reason, the Applicant respectfully submits that independent claim 1 is allowable over Masuda. Because dependant claims 2-11, and 16-20 depend from claim 1, Applicant submits they are also allowable.

Applicant respectfully requests that this rejection be withdrawn.

In light of the above amendment and remarks, Applicant respectfully requests that all the claims be allowed and this application passed to issue.

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on September 14, 2006.

By: Marc Fregoso

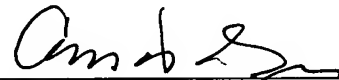

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Dated: September 14, 2006

Very truly yours,

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